

Our Ref: 3732/01/NDR

04 February 2025

By email only: Ben.Glover@north-herts.gov.uk

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North Hertfordshire District Council
Development and Conservation
PO Box 10613
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Dear Mr Glover

PLANNING APPLICATION REF: 24/02455/FP - PROPOSED DEVELOPMENT OF A SOLAR ARRAY AND ASSOCIATED INFRASTRUCTURE AT SPERBERRY HILL ON LAND TO THE SOUTH OF WYMONDLEY SUBSTATION

RESPONSE TO CONSULTEE COMMENTS IN RELATION TO THE CHILTERN NATIONAL LANDSCAPE (PRESENT AND POTENTIAL FUTURE) AND ECOLOGICAL MATTERS

We write on behalf of the Applicant, Brockwell Storage and Solar Limited (BSSL), in response to landscape and ecology matters raised by consultees during North Hertfordshire District Council's (NHDC) determination of the above planning application. This application relates to the erection of a solar farm with associated battery storage and ancillary infrastructure on land to the south of Wymondley substation and south of Sperberry Hill, St Ippolyts, North Hertfordshire (the 'Site').

The Sperberry Hill Solar Array proposal (hereafter referred to as the 'Resubmission Scheme') relates to the same applicant, description of development and site of a previous application that was refused planning permission by North Hertfordshire District Council (NHDC) on 22 November 2023 (NHDC ref: 22/00709/FP), hereafter referred to as the '2023 Scheme'.

This letter responds to two consultation responses as follows:

- A request for further landscape information in relation to the Chilterns National Landscape raised by Natural England in their letter dated 20th November 2024 (ref: 493362). These are addressed subsequently within this letter.
- Ecological matters raised by NHDC's Ecologist in their response dated 28th November 2024. These are addressed within the following documents submitted alongside this letter:
 - i. Technical Note prepared by Avian Ecology dated 3rd February 2025 (ref: AxisL-043-1518);
 - ii. Planning Drawing ref: 3732-01-11 Rev A (Indicative Deer-Stock Fencing, Access Track & CCTV). This replaces the submitted drawing of this title and has been revised to incorporate larger mammal gaps within the fencing; and
 - iii. Updated Statutory Biodiversity Metric Tool.

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Natural England Request for Further Information

1. In their letter dated 20th November 2024, Natural England submitted a request for further information in order to determine the significance of impacts on the Chilterns National Landscape (formerly 'Area of Outstanding Natural Beauty' or 'AONB').

2. Natural England note that:

"As submitted, the application could have potential significant effects on the Chilterns National Landscape. Natural England requires further information in order to determine the significance of these impacts and the scope of mitigation".

3. The supporting text states that:

"The proposed development is located partly within/ within an area which Natural England has assessed as meeting the criterion for designation as an Area of Outstanding Natural Beauty (known as a Proposed Boundary Extension Area) and may be included within a boundary variation to the Chilterns Area of Outstanding Natural Beauty (AONB, known as National Landscape). Whilst this assessment process does not confer any additional planning protection, the impact of the proposal on the natural beauty of this area may be a material consideration in the determination of the proposal. Natural England considers the Chilterns to be a valued landscape in line with paragraph 180 of the National Planning Policy Framework (NPPF). Furthermore, paragraph 182 of the NPPF states that development in the settings of AONBs should be sensitively located and designed to avoid or minimise impacts on the designated areas. An assessment of the landscape and visual impacts of the proposal on this area should therefore be undertaken, with opportunities taken to avoid or minimise impacts on the landscape and secure enhancement opportunities. Any development should reflect or enhance the intrinsic character and natural beauty of the area and be in line with relevant development plan policies. In addition, Section 245 (Protected Landscapes) of the Levelling Up and Regeneration Act 2023 places a duty on relevant authorities to seek to further the statutory purposes of the area in carrying out their functions in relation to, or so as to affect, land in an AONB.

An extension to an existing AONB is formally designated once a variation Order, made by Natural England, is confirmed by the Defra Secretary of State. Following the issuing of the designation Order by Natural England, but prior to confirmation by the Secretary of State, any area that is subject to a variation Order would carry great weight as a material consideration in planning decisions"

4. This response has been prepared by the Applicant to address the above points, and is structured as follows:
 - i. Issue 1 – Effects of the Resubmission Scheme on the Chilterns National Landscape; and
 - ii. Issue 2 – Implications of a possible extension to the Chilterns National Landscape.

Issue 1 - Effects of the Resubmission Scheme on the Chilterns National Landscape

5. The Site is not subject to any extant landscape designations. The closest landscape designation is the Chilterns National Landscape ('the Chilterns'), which is located approximately 3.8km to the west of the Site. The built-up area of Hitchin separates the Site from the Chilterns.

6. The Applicant prepared a Landscape and Visual Impact Assessment (LVIA) (**PDAS Appendix D**) that assessed the landscape and visual impacts of the Resubmission Scheme, including to the Chilterns. The LVIA included a Zone of Theoretical Visibility (ZTV) at Figure 2 that modelled the potential visibility of the Resubmission Scheme based on a Digital Surface Model (DSM) which reflects the presence of vegetation, buildings and other structures in the landscape.
7. The ZTV demonstrates that the Site's position on south-facing slopes means it is not visible from the north or north-west, and with very limited visibility in a westerly direction. Due to the position of the Site in relation to the underlying landform and pattern of vegetation, the Site is not distinguishable from the Chilterns and similarly the Resubmission Scheme at approximately 2.4m in height across much of the Site would not be distinguishable from the Chilterns. Field work has been undertaken from the Chilterns and no views of the Site have been identified.
8. Landscape and visual impacts on the Chilterns were therefore not considered further through the LVIA on the basis that any impact would not be significant as a result of distance, the height and scale of the development, and the intervening landform and vegetation pattern.
9. The Applicant's position is therefore that **the Resubmission Scheme would have no perceptible impact on the setting of the Chilterns.**
10. The Resubmission Scheme has a reduced footprint and consequently reduced landscape and visual effects compared to the 2023 Scheme.
11. On the 2023 Scheme, Natural England raised no specific concern about the effect of this proposed development on the existing Chilterns designated landscape.
12. Similarly, NHDC reported at Paragraph 4.5.127 of their Committee Report for the 2023 Scheme that: *"the overall effects [of the 2023 Scheme] on the AONB are considered to be Negligible"*.
13. Based on the above, the Applicant asserts that **the Resubmission Scheme would have no effect on the extant designated area of the Chilterns National Landscape.** The Applicant does not believe there is any further evidence that should be required to reach this conclusion.

Issue 2 - Implications of a possible extension to the Chilterns National Landscape

14. The basis of Natural England's request for further information appears to be that the Resubmission Scheme could have significant effects on the Chilterns because of ongoing work that has identified a 'Proposed Boundary Extension Area' to the Chilterns National Landscape, and that the Application Site may be within or partly within this area.
15. At this stage, there is no published boundary for the Proposed Boundary Extension Area ('PBEA') to establish whether the Site is, or is not, within the proposed boundary extension.
16. The most recent advice available for the Chilterns Boundary Review Project is set out online in the 'Frequently Asked Questions November 2024'¹ document (see Appendix A to this letter). In this document, Natural England advise that the PBEA will be made public as part of a statutory and public consultation exercise which is to commence in Spring 2025. Following this consultation exercise, the PBEA will be reviewed and the boundary could be amended before Natural England seek approval from their Board for making and submitting a Variation Order (an 'Order') to the Secretary of State (the 'SoS'). The timeframes for submitting an Order and then for the SoS to confirm the Order are as yet unknown, but Natural England note that previous designations have

¹ <https://www.chilterns.org.uk/wp-content/uploads/2024/11/Chilterns-AONB-FAQs-November-2024-1.pdf>

taken three to five years from the commencement of technical assessments through to the submission of the Order for the SoS's consideration. The technical assessments for the Chilterns boundary review commenced at the end of 2022 and therefore based on the typical timeframes advised by Natural England, it is unlikely that an Order would be submitted until the end of 2025 at the earliest.

17. As noted above, this Planning Application is a resubmission of a previous planning application on the same site. NHDC reported at Paragraph 4.5.127 of their Committee Report for the 2023 Scheme that: *"The Chilterns AONB boundary is currently the subject of review by Natural England and their consultants. This includes a North Hertfordshire Extension which encompasses land south of St Ippolyts. This review is in its early stages and the Extension remains only a proposal presently. **Given this, it is considered to carry limited weight in landscape and visual considerations.** In the circumstances, the overall effects on the AONB are considered to be Negligible."* [emphasis added]
18. The matter of planning weight that should be afforded to the impacts of a proposal on a proposed extension to a National Landscape has also recently been considered in an Appeal Decision issued in April 2023 (PINS reference 3311941²). In this case the Inspector was considering a proposal that was within the PBEA (or 'Candidate Area') for the Surrey Hills National Landscape. The Inspector confirmed that, 1) inclusion in the Candidate Area does not confer any additional planning protection, and 2) that great weight as a material planning consideration cannot be given until such time as an Order has been formally submitted to the SoS.
19. No Order has yet been submitted to the SoS for an extension to the Chilterns, and therefore in accordance with the above, the weight applied by NHDC to the matter of the National Landscape extension **should continue to be limited, as it was for the 2023 Scheme.**
20. In the context of the Site and whether it would merit inclusion in the emerging PBEA, NHDC reported at Paragraph 4.5.102 of their Committee Report for the 2023 Scheme that *"The NPPF does not define what is a valued landscape, albeit most landscapes are valued by someone at some point. In the light of appeal decisions on this matter it is considered that valued landscape means it is valued because it has some demonstrable physical attributes that would make it more than just open countryside. Representations from local people have confirmed that the countryside within and around the application site is valued. **However, while it has some pleasant characteristics, it is not notably above the ordinary and local area. Therefore, officers do not consider the application site to be a 'valued landscape' in the context of the NPPF.**"* [emphasis added]
21. The Applicant and NHDC came to the same conclusion on the 2023 Scheme that the Site is not part of a 'valued landscape' for the purposes of NPPF Paragraph 187(a). The underlying landscape fabric and landscape context has not notably changed since that time and therefore the Applicant sees no reason that the Application Site should now be considered a 'valued landscape'.
22. Given the Site is not considered to be a 'valued landscape' in NPPF terms and to quote NHDC that *"while it has some pleasant characteristics, it is not notably above the ordinary and local area"*, the Applicant does not see how it could merit inclusion within the emerging PBEA for the Chilterns National Landscape.
23. Supporting this position further, the Natural England FAQs document (Appendix A of this letter) states that *"Landscape and scenic quality rarely change suddenly and one of the boundary considerations established through precedent is that where there is an area of transition in*

² <https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3311941>

landscape or scenic quality, a boundary should be drawn towards the high-quality end of the area of transition, to include areas of high-quality land and exclude areas of lesser quality. In other words, the boundary should be drawn conservatively.”

24. The Applicant expects that the emerging PBEA would not include the Application Site as the boundary of any such area should be drawn conservatively, and there are clear detracting features in the local landscape around the Site which would direct any conservatively drawn boundary to the south and west, away from the Site.

Conclusion

25. The Applicant contends that Natural England’s position that further consideration of the effects of the Resubmission Scheme on the Chilterns National Landscape is not justified, or required.
26. The effects on the extant Chilterns National Landscape have been fully considered within the Planning Application, and the emerging as yet undefined PBEA cannot be assessed, and should not be afforded anything greater than limited weight (as it was previously) in the determination of the application.
27. The Applicant’s position remains that the Site is not part of a valued landscape, as was agreed by the Applicant and NHDC at the determination of the 2023 Scheme. There has been no material change to the Site context since that time that indicate an alternative conclusion could be reached.

In addition to the foregoing, addressing Natural England’s request, we trust that the attached ecological information will also satisfactorily address the comments made by the Council’s ecologist.

Yours sincerely



Nick Roberts

Technical Director on behalf of Axis

Appendix A - The Chilterns Area of Outstanding Natural Beauty Boundary Review Project - Frequently Asked Questions November 2024



Frequently Asked Questions November 2024

The Chilterns Area of Outstanding Natural Beauty Boundary Review Project

Introduction

It is Natural England's statutory responsibility to designate National Parks and AONBs.

In July 2021 Natural England announced a new programme for landscape, working with stakeholders, communities, and government. This includes determining four proposals for either new AONBs, or extensions to existing AONBs. One of these is to consider a proposal for an extension to the Chilterns AONB.

The purpose of this Frequently Asked Questions document is to help inform the public about AONBs and the Chilterns AONB in particular; the designations process and Natural England's role; as well as some of the implications for any area that is designated as an AONB. As such it provides outline information.

For more detailed information on the designation process see the [Natural England Guidance on Assessing landscapes for designation](#).

1. Background

Q. What is an AONB?

A. An [Area of Outstanding Natural Beauty](#) (AONB) is land protected by the Countryside and Rights of Way (CROW) Act 2000. Section 82(1) of the CROW Act defines an AONB as "an area which appears to Natural England to be of such outstanding natural beauty that it is desirable that the protective provisions of Part IV of the Act should apply to it for the purpose of conserving and enhancing the area's natural beauty." There are currently 34 [AONBs in England](#).

The Chilterns AONB was first designated in 1965 under legislative provisions originally set out in the National Parks and Access to the Countryside Act 1949 (<https://www.chilterns.org.uk/our-landscape/>)

Q. Who makes decisions with regard to new landscape designations?

A. Natural England has a discretionary power under S.82 of the CROW Act, to designate Areas of Outstanding Natural Beauty (AONB) or to vary the boundary of an existing AONB

by a subsequent Order (a variation Order). Any decision will be made by Natural England's Board, having considered the evidence and the results of the statutory consultation and the statutory Notice period. The Orders do not take effect however unless and until they are confirmed by the Secretary of State (Defra). The Secretary of State has the power to call a Public Inquiry under the Inquiries Act 2005 if minded to do so.

Q. What is Natural England's remit?

A. Natural England is the government's independent adviser on the natural environment, with special responsibilities for creating National Parks and Areas of Outstanding Natural Beauty and reviewing their boundaries. We also have a wide range of other responsibilities for the natural environment. More information about our work is at www.gov.uk/government/organisations/natural-england.

Q. How does Natural England decide which areas should be designated as AONBs?

A. In deciding whether to designate an AONB, or to vary an existing AONB boundary, Natural England must first consider whether the land has outstanding natural beauty and then whether designation is desirable for the purpose of conserving and enhancing the area's natural beauty. This decision requires Natural England to address three broad questions:

1. Does the landscape have sufficient natural beauty to be considered outstanding?
2. Is it desirable, to designate this landscape as AONB in order to conserve and enhance its natural beauty?
3. Where should the boundary be drawn?

Further details are given in subsequent sections below on the ways in which these three questions are addressed in practice.

Q. How is the Chilterns AONB managed?

A. The Chilterns Conservation Board is the public body established to conserve and enhance the Chilterns Area of Outstanding Natural Beauty and was established by Parliamentary Order in 2004. It has 27 members drawn from local communities in the Chilterns. It leads on the preparation, monitoring and review of the AONB Management Plan on behalf of its constituent bodies and other partner organisations. The Management Plan provides a vision and policies to help guide the work of landowners, land managers and all those who have an influence over land in the AONB, as well as those who live, work, and enjoy leisure time there. The Conservation Board also plays a leading role in developing an image and sense of identity for the Chilterns AONB and developing and supporting initiatives that implement the AONB Management Plan policies.

The Conservation Board is based in Chinnor, Oxfordshire. The staff team take forward a range of initiatives that promote the special character of the Chilterns, establish partnerships, secure funding, ensure implementation and monitor effectiveness. In recognition that the Chilterns AONB is a nationally important landscape, 80% of the Unit's core costs are funded by central government through DEFRA with 20% of core costs from the nine local authorities to reflect their statutory responsibilities towards the AONB.

Q. Does the Government Announcement (29th November 2023) of their intention to designate a new National Park affect the Chilterns Boundary Review Process?

A. We are delighted the Government recognises the vital importance of England's protected landscapes. Natural England began work to identify possible locations for a new National Park in the new year, working with Natural England's expert Landscape Advisory Panel. This will be a separate exercise to the boundary review for the Chilterns AONB and will not impact the boundary review project. At this stage, we are not able to say if the Chilterns are one of the areas that Natural England are considering as a National Park.

Q. Why is the Chilterns National Landscape still being referred to as the Chilterns AONB for the boundary review project?

A. AONBs were recently rebranded as National Landscapes, however when designating or varying the boundary of a National Landscape, Natural England still legally continues to designate AONBs under S.82 of the CROW Act, variation Orders must be confirmed by the Secretary of State for the Order to take effect. To avoid confusion, this document thus refers to AONB throughout. If an AONB is subsequently designated then it would be branded as a National Landscape.

2. Review of the boundary Chilterns AONB

Q. What areas are currently within the Chilterns AONB?

A. The Chilterns AONB covers 833 square km of countryside, stretching from the River Thames in southern Oxfordshire up through Buckinghamshire and Bedfordshire to Hitchin in Hertfordshire. The boundary can be viewed on the governments interactive mapping tool: [MAGIC \(defra.gov.uk\)](https://defra.gov.uk/magic)

Q. Why is the boundary of the Chilterns AONB being reviewed?

A. The Chilterns Conservation Board has long considered that the AONB should be extended into adjacent areas that it considers meet the criteria for designation as an AONB. Representations to this effect have been made to Natural England and predecessor bodies over a number of years.

Q. Why is this work taking place now?

A. The Rt Hon George Eustice MP, Secretary of State (Defra), made a Written Ministerial Statement on the 24th of June 2021 which included reference to Natural England taking forward the government's commitment to designate additional protected landscapes with specific reference considering the designation of the following four new areas.

- Yorkshire Wolds AONB
- Cheshire Sandstone Ridge AONB
- An extension to the Surrey Hills AONB
- An extension to the Chilterns AONB

This followed the publication of the government commission Landscapes Review, in September 2019 (the 'Glover Review').

Q. What are the next steps and expected timescales?

A. Natural England appointed consultants (Land Use Consultants or LUC) at the end of 2022 who are specialists in this area of work and will assist in undertaking the technical assessments of natural beauty and desirability, working with key local stakeholders to ensure that we have access to the best available evidence.

The following is a summary of the practical steps to be followed in order to fulfil the legislative requirements of an AONB boundary review. Please note the timescales noted for each step are indicative and are subject to change as the project progresses.

- Specialist consultants have been appointed to undertake all technical assessments of natural beauty and considerations of the desirability for designation on behalf of Natural England.
- Review all available evidence relevant to the assessment of natural beauty, engaging with the Technical Advisory Group (TAG*) for the project to gather technical evidence and consider issues raised. Consultants will undertake field survey site work as part of this process: This work has been carried out and a draft Natural Beauty Assessment Report has been prepared. This will be made publicly available at Public and Statutory Consultation.

*The Technical Advisory Group (TAG) is made up of officers from each of the affected local authorities

- Targeted informal engagement workshops were run in November 2023 with members of the TAG, technical experts from representative statutory bodies and key stakeholder organisations. The workshops focussed on the Candidate Area (areas where natural beauty has been identified as being present). Further scrutiny will be provided by the project governance groups prior to the start of the Public and Statutory Consultation.
- Assess evidence and determine the desirability of designating qualifying areas and revise proposals as required following the informal engagement in November 2023: This work has been carried out and a draft Desirability Assessment report has been prepared. This will be made publicly available at Public and Statutory Consultation.
- Identifying proposed boundary changes: *This work has been carried out and a draft Boundary Considerations Report has been prepared. This will be made publicly available at Public and Statutory Consultation.*
- Launch and undertake formal statutory and public consultation on the proposed boundary changes. This is the main opportunity for all interested parties to provide formal responses about the proposed boundary review (for further information on who the statutory consultees are, please see Page 8). Formal statutory and public consultation to take place: *Spring 2025 and is expected to run for approximately 12 weeks.*
- Review responses to the statutory consultation prior to seeking Natural England Board approval of a draft Variation Order with regard to amending the boundary of an existing AONB and approval to proceed to a formal period of Notice. To begin by: *Dates to be confirmed.*
- If the proposal is changed to include additional land as a result of representations made at the formal statutory and public consultation, a further period of statutory consultation is required on the changes.

- Plan and proceed with the formal period of notice. This provides a formal opportunity for public comment. This is in effect a further round of statutory and public consultation: *Dates to be confirmed.*
- Analyse representations received during the formal Notice period, potentially amend technical assessments and proposal: *Dates to be confirmed.*
- Seek approval from Natural England's Board for the making and submitting an Order to the Secretary of State (Defra) to vary the boundary of the Chilterns AONB. *Dates to be confirmed.*

Q. When is the boundary review expected to be completed?

A. A national landscape designation (AONB/ National Park) is a significant undertaking requiring robust evidence gathering, engagement and consultation with local and national communities and stakeholders and is therefore rightly not a quick process. We expect each designation to take two to three years. Previous designations have taken three to five years from commencing technical assessments to the submission of a designation order for confirmation by the Defra Secretary of State.

It is not possible to say how long the Secretary of State's decision will take following submission or whether a Public Inquiry will be called.

Q. What was the November 2023 informal engagement for and who was involved?

A. The purpose of the informal engagement was to seek valuable local expert knowledge and feedback on the natural beauty assessment, an initial stage of the boundary review process. It involved:

- Identifying any valued sites that may have been missed in our assessment so far
- Identifying any gaps in the draft Natural Beauty Assessment, and;
- A call for any new information which could inform our assessment of desirability, which is the next stage of the boundary review process.

At this informal engagement stage, we sought feedback from selected key partnership organisations that have specialist expert knowledge only. Those that have both the local knowledge and the remit to provide professional, objective, technically focussed inputs at a landscape scale to inform the boundary review process and strengthen our proposals in advance of the Public and Statutory Consultation; including:

- Statutory consultees which are made up of each of the affected local authorities.
- National Bodies;
- Utilities;
- Relevant wildlife and conservations trusts; and
- Key recreational organisations.

Q. How will Parish Councils and local people be able to engage?

A. The Statutory and Public Consultation will be when Natural England formally seeks evidence and comments on the proposals from all interested parties including parish councils and the wider members of the public. The Statutory and Public Consultation will be

open for a minimum of 8 weeks and is expected to run for a period of approximately 12 weeks. Details will be publicised closer to the time.

Q. How will the Public and Statutory Consultation be publicised and how will respondents be able to respond?

A. At the Public and Statutory Consultation stage, the Natural Beauty, Desirability, and Boundary Setting reports will be made available, allowing statutory and non-statutory consultees to provide responses.

The consultation will be publicised nationally and locally through a variety of means including via the DEFRA consultation hub, through the Chilterns Conservation board and project partners and via local and national media.

The reports and maps will be made available on the formal online consultation platform which will go live on the launch date of the consultation. Physical copies of the reports and maps will also be made available at local venues e.g. libraries and council offices. There will be events that stakeholders can attend including targeted briefings to specific stakeholder groups, as well as events for the wider public. These will be a mixture of online and face-to-face and will provide an opportunity to ask questions of the project team and understand the process and the proposals. The face-to-face events will also provide an opportunity to look and take away physical copies of the information.

We will be encouraging that responses are submitted online through the formal consultation website or via a physical consultation response form.

Q. Could the review result in the designated area being reduced?

A. Natural England is considering whether there are further areas that might have potential to be designated as extensions to the existing Chilterns AONB. At this time, Natural England is not considering removing land from the existing AONB.

3. The Designation Process in more detail

Q. How does Natural England go about fulfilling this statutory responsibility?

A. Natural England's *Guidance on Assessing Landscapes for Designation* was updated in June 2021 and sets out how we evaluate natural beauty as well as the desirability of designation and the criteria we use to identify detailed boundaries. The guidance can be accessed here: [Guidance on Assessing Landscapes for Designation Updated 2021.pdf - Google Drive](#).

Q. How is the assessment of Natural Beauty undertaken?

A. Once an area has been selected for consideration for designation, it will be assessed in detail, using the guidance referred to above. This guidance explains how Natural England normally expects to apply the statutory designation criteria in practice when assessing landscapes for designation.

Natural beauty is not exhaustively defined in the legislation. It is also a subjective characteristic of landscape and ultimately involves an evidence-based value judgment. In deciding whether an area has outstanding natural beauty, Natural England must make a

judgment as to whether people are likely to perceive a landscape as having outstanding natural beauty.

In order to make these value judgments (some of which are subjective) in a transparent and consistent way, the Guidance sets out clear factors Natural England uses, reflecting precedent from past designations as to what has been accepted as relevant to natural beauty. These include landscape and scenic quality, relative wildness, relative tranquillity, and the contributions made to natural beauty by natural and cultural heritage features.

Q. Does land already have to have outstanding natural beauty in order to be included in an AONB or can ‘potential’ natural beauty be taken into account.

A. The test which has to be applied is stipulated in the legislation and is whether the area “is of such outstanding natural beauty that...”. The test is in the present tense. Thus, as a whole, the area must be deemed to be already of outstanding natural beauty. The assessment is not however carried out at a field-by-field level and there may be small pockets within it which do not fulfil the designation criterion in their own right. The decision to include non-qualifying land depends on the location, scale and effect of that land, with more scope within the body of a large qualifying area than towards the margins. In rare cases, where there is confidence and a high degree of certainty that an existing, well-developed initiative will enhance a non-qualifying area to a qualifying standard, that may be taken into account. Large urban areas are however excluded.

It is also possible to have ‘outliers’, as part of an AONB, these are areas of qualifying land which sit outside the main body of a designation but are separated from it by non-qualifying land. These areas would however need to be of sufficient scale to make this desirable.

The statutory designation purpose, i.e. the conservation and enhancement of natural beauty becomes relevant once an area is designated and projects and investment to enhance the natural beauty of the area will be actively encouraged throughout the area.

Q. How does Natural England decide whether it is desirable to designate land as an AONB?

A. Once it has been established that an area of land meets the natural beauty criterion, Natural England must also deem it to be **desirable** to designate it for the purpose of conserving and enhancing its natural beauty.

Factors that are considered relevant to the ‘desirability’ of designation include:

- Is there an area which satisfies AONB technical ‘outstanding natural Beauty’ criterion?
- Is the area of such national significance that the AONB purpose should apply to it?
- What are the issues affecting the area’s special qualities and how could these be affected by designation?
- Can AONB purposes be best pursued through the management mechanisms, powers and duties along with access to possible additional funding, volunteers, marketing opportunities, which come with AONB designation?
- Are there other relevant factors which tend to suggest whether it is or is not desirable to designate the area

For example, if land already subject to development consent, we would need to consider what stage is that consent in the planning process and how likely is that consent to be implemented, if land has been identified in an adopted local plan or if there is a planning proposal has been submitted, then this would most likely result in the land not being proposed for designation. The scale and nature of the proposal would need to also be taken into account. If a development proposal is in the body of an area proposed for designation it may be included. If it is on the edge of a proposed designation, it would be excluded at boundary setting, when most up to date information on planning allocations is used.

The more closely that any issue raised, relates to the statutory purpose (the conservation and enhancement of natural beauty), then the greater its relevance and importance.

Q. How does Natural England identify new boundaries for a proposed extension?

A. If Natural England decides that an area has sufficient natural beauty and that it is desirable to designate, the last step prior to statutory consultation is to identify a detailed boundary and justify it. Boundaries will normally follow a permanent physical feature which ideally is clearly visible on the ground, such as a wall or hedged field boundary, road, or the built edge of a settlement. There is clear Ordnance Survey Guidance and much relevant precedent on what constitutes a good boundary, both of which would be followed.

Landscape and scenic quality rarely change suddenly and one of the boundary considerations established through precedent is that where there is an area of transition in landscape or scenic quality, a boundary should be drawn towards the high-quality end of the area of transition, to include areas of high-quality land and exclude areas of lesser quality. In other words, the boundary should be drawn conservatively.

Q. At the time of the statutory consultation who are the statutory consultees?

A. The CROW Act requires that Natural England undertakes a statutory consultation of the principal local authorities covering the area prior to reaching a final decision. The statutory consultees are made up of the local authorities who will be affected by the proposals. In practice Natural England will open the consultation to anyone who might have an interest in the project, including the wider public.

Q. Why would a Public Inquiry be called?

A. The Secretary of State may if so minded, call a Public Inquiry to assist in their decision making in relation to whether the designation should be confirmed or not, or amended. A Public Inquiry provides a further opportunity to explore any remaining unresolved objections to assist in the Secretary of State in their decision making.

4. The Implications of Designation

Q. What will change as a result of designation as an AONB?

A. The provisions of the Countryside & Rights of Way Act will immediately apply i.e.:

- S84 (4) specifically provides for a local authority whose area consists of or includes the whole or any part of an Area of Outstanding Natural Beauty to have the power to take all such action as appears to them expedient for the accomplishment of the purpose of conserving and enhancing the natural beauty of the area.

- S85(1) confers a General Duty to have regard to the purpose of AONB designation as follows: “In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty, a relevant authority shall have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.”
- S85(2) defines ‘relevant authorities’ for these purposes as encompassing any Minister of the Crown, any public body, any, statutory undertaker and any person holding public office.
- S87 1 – 7 confers general duties and powers on the Chilterns Conservation Board.
- S87 (1) confers a duty on the Conservation Board to have regard to its twin purposes “a) the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty, and b) the purpose of increasing the understanding and enjoyment of the public of the special qualities of the area of outstanding natural beauty, but if it appears to the board that there is a conflict between the purposes, they are to attach greater weight to the purpose mentioned in paragraph (a)”.
- S87 (2) confers a duty on the Conservation Board to “seek to foster the economic and social wellbeing of local communities within the AONB by co-operating with local authorities and public bodies whose functions include the promotion of economic and social development within the AONB”.
- S87 (3) confers general duties as to the protection of interests of the countryside and the avoidance of pollution.
- S87 (4) confers general duties to undertake anything calculated to facilitate or conducive or incidental to the accomplishment of the purposes mentioned in S87(1) and other functions conferred by the Act.

Q. What are the wider implications if designation goes ahead?

A. Any areas that become a part of the Chilterns AONB will have the benefit of the national status that designation brings and the statutory protection this provides. They will be fully reflected in future AONB Management Plans and benefit from the resources and skills of the Conservation Board team. In recent years, the Conservation Board has secured in excess of £20m of project funding benefitting the AONB, in addition to its Defra grant and contributions from local authorities.

Unlike most AONBs, the Chilterns AONB is managed by a Conservation Board. Like National Parks, Conservation Boards have two purposes which they have the duty to deliver. The first is ‘the conservation and enhancement of natural beauty’ and the second is ‘increasing understanding and enjoyment by the public of the special qualities of the area of outstanding natural beauty’.

Q. How will AONB designation affect planning and development?

A. Designation has no effect on who makes decisions on applications for planning or development consent. For example, all planning applications will continue to be determined by the relevant local planning authorities, who will also continue to prepare and adopt local

plans in line with the National Planning Policy Framework which provides the highest level of planning protection for AONBs.

In an AONB, great weight should be given to conserving and enhancing landscape and scenic beauty, the scale and extent of development would be likely to be limited and planning permission refused for major development unless in exceptional circumstances where it is in the public interest. Development promoters and decision-makers will be advised to refer to the AONB Management Plan and to technical and design guidance published by the Conservation Board to demonstrate how their proposals promote the conservation, enhancement, understanding and enjoyment of the AONB.

Some Permitted Development Rights are withdrawn, requiring affected proposals to be subject to the full planning application process.

Q. How will designation affect landowners and other land managers?

A. Ownership of land remains unchanged within an AONB, and there is no restriction on how land can be farmed. There is also no impact on Single Farm Payments to farmers and landowners. Historically farmers and landowners have been able to benefit from past agri-environmental schemes which were specifically targeted at land in designated landscapes, most recently the Farming in Protected Landscapes Scheme (extended to March 2025). Landowners and managers within the AONB may also benefit from greater access to agri-environmental measures being announced by DEFRA as part of the ELMs programme.

Q. How will designation affect nature conservation?

A. The natural beauty of an AONB encompasses contributions made by both natural and cultural heritage features. Future management of the area will thus seek to ensure that the wildlife and habitats that are so intrinsic to its natural beauty, are conserved and enhanced. This is also the case with cultural heritage features. The integrated management approach taken by the Chilterns Conservation Board will also assist with the management of any potential conflicts which may arise between wildlife, cultural heritage, and recreation.